

ing district in which the use is located. (Ord. No. 673, § 1, 4-8-80)

Sec. 4-78. Use permit required.

(a) Each such facility must, prior to commencement or continuation of business if an established use at the effective date of this article [May 8, 1980], first apply for and receive from the planning commission a conditional use permit, as provided in section 11 of the zoning ordinance. If such permit is granted, it shall be granted upon such conditions as are necessary to protect the public health, safety and welfare. Any party aggrieved by a decision of the planning commission on an application for such a use permit shall have the right to appeal such decision to the city council, provided that notice of such appeal is filed with the city clerk within ten (10) days following the decision from which the appeal is made.

(b) Materials offered for sale from news-racks shall not be displayed in any manner which exposes to public view photographs or illustrations of specified sexual activities or of naked adults in poses which emphasize or direct viewers to the subject's genitals.

(c) No adult entertainment facility shall display or exhibit any material in a manner which exposes to the public view photographs or illustrations of sexual activities or naked adults in poses which emphasize or direct the viewer's attention to the subject's genitals. As used herein, "exposed to public view" means exposes to the view of persons outside the building in which said adult entertainment facility is located. (Ord. No. 673, § 1, 4-8-80)

Sec. 4-79. Nonconforming uses.

Any adult entertainment facility which is in existence and actively in business on the date that these regulations become effective [May 8, 1980] shall be deemed a nonconforming use. Such a nonconforming use shall be permitted to continue for a period not to exceed eighteen (18) months, unless sooner terminated for any reason whatever, or voluntarily discontinued for a period of thirty (30) days or more. Such nonconforming use

shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. (Ord. No. 673, § 1, 4-8-80)

Sec. 4-80. Violation a nuisance.

Every violation of the regulations contained in this article shall constitute and is hereby declared to be a public nuisance, which may be abated pursuant to the provisions of section 731 of the Code of Civil Procedure of the State of California. The total cost of abatement shall be made a special assessment against the interest, if any, in the parcel of land upon which such nuisance is maintained, had or possessed by the person determined in such judicial proceeding to be responsible for the operation and maintenance of such nuisance. Upon a judicial determination in a civil action under state Civil Code section 3494 or Code of Civil Procedure section 731 that a public nuisance did exist, such cost of abatement shall, by special ordinance, be made a lien against such property and a personal obligation against the person responsible for the operation and maintenance of such nuisance and shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in the case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to such special assessment. This remedy is in addition to any other remedy provided by law. (Ord. No. 673, § 1, 4-8-80)

Sec. 4-81. Penalty.

Notwithstanding any other provision of this article, any person who violates this article shall be guilty of a misdemeanor and may be punished as follows:

- (a) By imprisonment in the county jail not to exceed six (6) months; or
- (b) A fine not exceeding five hundred dollars (\$500.00). (Ord. No. 673, § 1, 4-8-80)